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EXHIBIT
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BUREAU OF WATER PROTECTION A
OFFICE OF THE BUREAU CHIEF

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To: Paul E. Stacey
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Bureau of Water Protection and Land Reuse
Planning & Standards Division
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From: Eileen Fielding, Executive Director
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Testimony of FRWA for Proposed Streamflow Regulations

FRWA is a private non-profit established in 1953 to protect, preserve, and restore the Farmington River and its watershed. We recognize the river and its watershed as living systems that provide essential amenities and ecosystem services with real economic benefits. In order to provide these public goods, the river needs to be in good working condition. River functions require adequate water flows, and relatively normal variations in flow.

We also recognize the great importance of the Farmington watershed, and the role of its water companies, especially the Metropolitan District Commission, in providing the drinking water used by over 400,000 residents of the Greater Hartford area.

The balance between the Farmington as a functioning river system and a major drinking water supply has not been easy to reach. There were historic clashes between FRWA and the MDC over how much water could remain in the river and how much could be taken for human use, in part because there was no science-based set of rules for striking a sustainable balance. With time and effort, major disputes have been resolved. Now FRWA and MDC are partners on some monitoring and management projects. Indeed FRWA and the water companies are in many ways on the same team as water stewards. The balancing of demands on the river isn't perfect, or complete, or over. But there is a plan in place, at least on the West Branch of the Farmington, that provides for a minimum flow, and some of the flow fluctuation, that sustains a living river—in this instance a National Wild and Scenic River.

Other rivers statewide deserve as much. Normally flowing rivers and streams support recreation, tourism, and property values. They recycle nutrients, move materials, filter and detoxify polluted water, and provide food and habitat for a huge variety of species. In this sense they are <u>all</u> "working rivers," not just the ones we will choose to call Class 3. Failing to manage them proactively by protecting their flows imposes real costs, especially since they will face additional stress from development pressure and climate change in coming years.

Though the proposed statewide regulations are not perfect, they are an essential step forward. They should be revised as needed through the public comment process—but regulations need to be adopted soon, rather than years from now.

More specific comments about the proposed regulations are below. In addition, FRWA concurs with comments submitted by The Nature Conservancy, the Housatonic Valley Association, and Rivers Alliance of Connecticut.

Stream Classifications.
The Farmington Watershed has the advantage of a streamflow study conducted during the preliminary study for the 1994 designation of the upper West Branch as a National Wild and Scenic River, and detailed projections of future water needs as studied by the Metropolitan District Commission, which uses the East Branch (Barkhamsted Reservoir) as a drinking water supply. In addition, agreements are already in place concerning the minimum "riparian" flow (i.e., flow that supports aquatic life) that must be maintained through controlled releases from the flood control impoundments on the upper West Branch.

Even with all this information, planning, and management in place, the proposed streamflow regulations raise concerns for FRWA. The status quo in the watershed includes acceptance of dewatering at least one segment of the river, specifically on the East Branch between Lake McDonough and the Farmington mainstem. If this situation results in a Class 4 designation for that segment, it undercuts any effort to restore a minimum flow in future. We request reconsideration of the regulations concerning Class 4 rivers. There should be incentives built in for raising the status of Class 4 to Class 3 (or higher), in addition to the current provisions to prevent further degradation of flow conditions in Class 4 rivers. Alternatively, Class 4 could be eliminated or very narrowly defined, so as to strictly minimize the number of Class 4 waterbodies. Otherwise, we see the potential for a one-way slide of river classifications from 3 to 4 over the decades, with no regulatory pressure or incentive to halt or reverse the trend of waterways falling into "irretrievable" status.

Withdrawal Limits.
The withdrawal limits based on river classification and river bioperiods are an enormous step forward in protecting streamflow and we support the overall approach. But an across-the-board withdrawal limit for a stream class is a relatively blunt instrument. Unless local conditions are taken into consideration, application of the limits can allow damage to Class 3 rivers—or even excess protection of Class 2 rivers. We suggest that in particular instances, mandated withdrawal limits for a classified stream can be adjusted, based on recent, reliable local data about a stream's characteristics and vulnerability to withdrawals. (Some of the traits that make a stream vulnerable or resistant to withdrawals have been detailed in the testimony of Sigrun Gadwa.) The option of an approved flow management plan or streamflow compact may be intended to address this issue; if so, these should explicitly require that flow management is based on up-to-date information concerning that stream's vulnerability to withdrawal, using hydrological and biological criteria.

Exemptions.
Another concern on the Farmington River is the regulation of flow over Rainbow Dam in Windsor. Good efforts are made to operate Rainbow Dam in a way that approximates run-of-river, but this is not guaranteed or instantaneous, and the dam's release regime can have a major impact on river habitat downstream. A reading of the proposed regulations indicates to us that (unless a flow management plan or compact is approved) Rainbow Dam would indeed come

under the regulations because it predates FERC authorization. To our knowledge no clear confirmation of this was provided during Q&A at DEP's public education presentations on streamflow regulations. If the regulations allow uncertainty on this point, then clarifying language should be added for the benefit of all stakeholders.

Timeframe.
The 5 to 16 year timeframe for implementation is necessary for some stakeholders to change infrastructure and cover costs. However, it may leave waterways vulnerable in the interim. The regulations should identify, or provide, the mechanism for DEP to address situations where low flow becomes a critical problem, if such situations occur before full implementation.

Costs and benefits.
The costs, inequities, and risks of adopting the regulations as written, have been expertly calculated by various stakeholders who deal with water supplies for drinking or commercial operations. These stakeholders need to sustain their businesses and we support the flexibility in the regulations that may be necessary to accommodate real needs, allow for the development of new business models, and deal equitably with smaller businesses with little margin for major changes.

On the other hand, there has been less investment in quantifying the costs, risks, and inequities of taking no action on streamflow regulation in Connecticut. Likewise, data on the local economic value of conserving or restoring flows is not abundant (though there have been two studies done on the dollar value of the Farmington River "as is" for recreation and/or real estate*). Lack of information does not mean that these risks and benefits are nonexistent.

There is a body of research literature that addresses the economic value of river flows. There is also literature evaluating the ecological costs, which are ultimately human costs, of dewatering rivers and streams. Studies relevant to rivers like ours are available. It should not be necessary to hold up streamflow regulation in Connecticut until a case is made entirely from scratch that flow conservation has economic benefits, or that non-regulation incurs real costs. A balance needs to be struck between hasty adoption of regulations that can be improved, and unconscionable delay in adopting regulations that have been needed for years.

Respectfully submitted,

Eileen Fielding
Executive Director

**Upper Farmington River Use and Economic Importance Report Part 2* at
http://www.farmingtonriver.org/ProjectsandReports/Reports/tabid/74/Default.aspx
And
Use and Economic Importance of the Lower Farmington River and Salmon Brook at
http://www.frwa.org/publications.html